

of such franchise, and they, as well as such persons, firms, or corporations, trustees, assignees or receivers, shall be guilty of violation of such penal ordinances as may be passed hereunder. (Added by amendment October 15, 1913)

ARTICLE IX. GENERAL PROVISIONS

Section 1. Actions by Citizens.

Any citizen who is a property tax-payer of the City of Houston may maintain an action in the proper court to restrain the execution of any illegal, unauthorized or fraudulent contract or agreement on behalf of said City, and to restrain any disbursing officer of said City from paying any illegal, unauthorized or fraudulent bills, claims or demand against said City, or any salaries or compensation to any person in its administrative service whose appointment has not been made in pursuance of the provisions of law and the regulations in force thereunder. And in case any such illegal, unauthorized or fraudulent bills, claims or demands or any such salary or compensation shall have been paid, such citizen may maintain an action in the name of said City against the officer making such payment, and the party receiving the same, or either, or both, to recover the amount so paid, and such amount, after deducting all expenses of the action, shall be paid into the City treasury; provided, however, that the court may require such citizen to give security to indemnify the City against costs of court, unless the court shall decide that there was reasonable cause for bringing the action. The right of any property tax-payer of the City to bring an action to restrain the payment of compensation to any person appointed to or holding any office, place or employment in violation of any of the provisions of this Act, shall not be limited or denied by reason of the fact that said office, place or employment shall have been classified as, or determined to be, not subject to competitive examination; provided, however, that any judgment or injunction granted or made in any such action shall be prospective only, and shall not affect payments already made or due to such persons by the proper disbursing officers.

In case of any unsatisfied judgment, or any suit or process of law against said City, any five or more citizens who are freeholders of said City, shall, upon petition, accompanied by affidavit that they believe that injustice will be done to said City in said suit or judgments, be permitted to intervene and inquire into the validity of said judgment, or defend said suit or action as fully and completely as the officers of said City would by law have the right to do. (Act of 1905)

Sec. 2. Elections.

That in each voting precinct of the City as the same may be legally defined, shall be established and arranged at least one voting place, and where two or more voting places are established, they shall be so located as to be most convenient to the greatest number of voters, with a distinct set of election officers, ballot boxes and registration books for each voting place; provided, the voter shall vote in the district or precinct of his residence. The city council shall make all necessary regulations concerning elections; the manner and method of holding the same. Such regulation, however, shall be in keeping with the provisions of this Act, and shall be in keeping with and consistent with the provisions of the State law applicable to elections and municipalities, in so far as the same may be practicable, and the city council shall provide for the examination and counting of the returns of elections, declarations of the result thereof, and the issuance of proper certificates to the successful candidates; and it is hereby made the duty of the council to examine and count the returns at its first regular meeting after the election shall be held, or if no regular meeting shall be held within one week after an election is held it is hereby made the duty of the mayor to call a special meeting of the council for the purpose of counting the vote and determining the result of the election within one week after the election is held, and the officers declared to be elected at such election shall be entitled to qualify immediately after the declaration of the result of the election, upon taking the oath of office prescribed by law.

The city council may, consistent with the other provisions of this Act, and conforming to all the provisions of the State law regulating primary

elections in cities and towns in so far as the same may be applicable, prescribe the manner and method of holding primary elections by all political parties or political organizations of any kind whatsoever, and to determine the rules that shall obtain with respect to the representation the respective parties or candidates may be entitled to at the polls; may prescribe an official ballot, official returns, etc., and the expense of all primary elections held for the purpose of nominating candidates of any political party or organization for city offices shall be borne and paid for by the city of Houston. (Act of 1905; amended by Act of April 13, 1905)

Section 3. Petitions.

The petitions provided for in this Act need not be on paper, and may be printed or written, but the signatures thereto must be the autograph signatures of the persons whose names purport to be signed. To each signature the house address of the signer must be added, and the signature must be made acknowledged or proved before an officer authorized by law to take acknowledgments and proof of deeds. The certificate of such officer, under his official seal, that a signature was so made and acknowledged or proved shall be sufficient proof of the genuineness of the signature for the purposes of this Act. The signing of another's name, or of a false or fictitious name, to a petition, or the signing of a certificate falsely stating either that a signature was made in presence of the officer or acknowledged or proved before him, shall be punishable as a forgery. (Act of 1905)

Section 4. Public Act.

That this act shall be deemed a public Act, and judicial notice shall be taken thereof in all courts. (Act of 1905)

Section 5. Existing Ordinances.

All ordinances of the City of Houston, not inconsistent with the provisions of this Charter, shall remain in full force and effect, until altered, amended or repealed by the City Council. Provided, that the power to pass such ordinances

under former charters has not been repealed expressly or impliedly by the terms of this Act. (Act of 1905)

Section 6. Repealed.

Section 7. Printed Ordinances as Evidence.

All ordinances of the City of Houston published in book or pamphlet form, and purporting to be published "by authority of the City Council of the City of Houston," shall be received by all the courts of the State of Texas as prima facie evidence of the due passage and publication of such ordinances as appear therein; provided, that no person shall be precluded from showing by competent evidence that any ordinance published "by authority of the City Council of the City of Houston," as aforesaid, is not a true copy of the original ordinance. (Act of 1905)

Section 8. City not Required to Give Bond.

It shall not be necessary in any action, suit or proceeding in which the City of Houston is a party for any bond, undertaking or security to be demanded or executed by or on behalf of said City in any of the State courts, but all such actions, suits, appeals or proceedings shall be conducted in the same manner as if such bond, undertaking or security had been given as required by law, and said City shall be just as liable as if security or bond had been duly executed. (Act of 1905)

Sec. 9. Public Property Exempt from Execution Sale.

The property, real and personal, belonging to the City of Houston, shall not be liable to be sold or appropriated under any writ of execution, nor shall the funds belonging to the City in the hands of any person be liable to garnishment, nor shall the City or any of its officers or agents be required to answer any writ of garnishment, served upon or issued against it, and a failure to do so shall not entail any liability upon the City, but if the Mayor of the City elects so to do, he may answer in a writ of garnishment for the City, in his discretion. (Act of 1905)

Sec. 10. Freeholder in city not disqualified as juror, etc.; city employees exempt jury service.

No person shall be an incompetent judge, justice, witness or juror by reason of his being an inhabitant, or a free-holder, or a tax-payer of the City of Houston, in any action or proceeding in which said City may be a party at interest, and all officers and employes of said City shall be exempt from jury service. (Act of 1905)

Note—The title of this section was added by the editor; it was not titled in the 1905 Special Act.

Section 11. Notice of Claim for Damages.

Before the City of Houston shall be liable for damages for personal injuries of any kind, or for injuries to or destruction of property of any kind, the person injured, or the owner of the property injured or destroyed, or some one in his behalf, shall give the Mayor and City Council notice in writing of such injury or destruction, duly verified, within ninety days after the same has been sustained, stating in such written notice when, where and how the injury or destruction occurred, and the apparent extent thereof, the amount of damage sustained, the amount for which claimant will settle, the actual residence of the claimant by street and number at the date the claim is presented, and the actual residence of such claimant for six months immediately preceding the occurrence of such injuries or destruction, and the names and addresses of the witnesses upon whom he relies to establish his claim, and a failure to so notify the Mayor and City Council within the time and manner specified herein shall exonerate, excuse and exempt the City from any liability whatsoever, provided that nothing herein shall be construed to effect or repeal Section 12 of Article IX of this Charter. (Act of 1905; amended October 15, 1913)

Section 12. Liability and Negligence.

The City of Houston shall not be liable to any person for damages caused from streets, ways, crossings, bridges, culverts, sewers or sidewalks being out of repair from negligence of said corporation, unless the same shall have remained so for ten days after special notice in writing given to the Mayor or city council. (Act of 1905)

Section 13. Pleading Ordinances.

It shall be sufficient in all judicial proceedings to plead any ordinance of the city by caption, without embodying the entire ordinance in the pleading, and all printed ordinances or codes of ordinances shall be admitted in evidence in any suit, and shall have the same force and effect as the original ordinance. Certified copies of ordinances may also be used in evidence. (Act of 1905)

Section 14. Judicial notice of Charter.

This Act shall be deemed a public Act, and judicial notice shall be taken thereof in all courts. (Act of 1905)

Note—The title of this section was added by the editor; it was not titled in the 1905 Special Act.

Section 15. Ownership and Regulation of Public Utilities.

The right is hereby granted to the City of Houston to acquire its public utilities, such as gas, water and electric light works, and underground, surface and elevated street railways, subways or underground conduit systems for electric light, power, telephone, telegraph and other wires used for the purpose of transmitting any electric service. That such utilities may be purchased by a payment in cash of twenty-five per cent. of such price, the balance in annual installments, including interest, to be paid out of the revenues of such utility, and that such works so purchased shall stand pledged as security for the payment of the amount due thereon, but that no judgment shall be rendered against the city upon any deferred note, requiring the city to pay any specified sum of money, but said judgment shall be merely one of foreclosure, divesting and depriving the City of the possession of the property so purchased but not paid for, in which event the City shall forfeit and lose only the cash payment of twenty-five per cent. of the agreed price, without liability or judgment in any sum for the unpaid purchase price; provided, that no purchase or expenditure shall be made under this Section, unless the same shall first have been submitted to the vote of the qualified tax-paying voters at an election to be held exclusively for that purpose.

And the right is hereby expressly granted to the City of Houston to regulate all public utilities in said City, and to require efficiency of public service, and to require all persons or corporations to discharge the duties and undertakings for the performance of which the respective franchises were made. (Act of 1905)

Section 16. Improvement Districts.

The city council may, and upon petition shall, divide the city or any portion of the corporate territory thereof, into "Improvement Districts", clearly defining the limits and boundaries of each district; and shall have the right, and is hereby authorized to borrow money on the credit of any improvement district so created in the city, and issue bonds therefor for the purpose of constructing and laying permanent sidewalks improvements, or permanent street paving improvements, or both, in such district, but every proposition to borrow money on the credit of any improvement district for permanent sidewalk improvements or street improvements, or both, therein shall be submitted to the qualified tax-paying voters living within and owning property in such district, and shall distinctly specify the purpose for which the loan is desired, and the permanent sidewalk or street improvements, one or both, proposed to be constructed. If said proposition be sustained by a majority of the votes cast in such election in such district, such loan shall be lawful. All bonds shall specify for what purpose they are issued, shall bear interest at a rate not greater than six per cent per annum, and, when sold, shall net not less than par value, with accrued interest to date of payment of the proceeds into the city treasury, and such bonds may be negotiated in lots, as the City Council may direct. No debts shall be contracted for the payment whereof such bonds are issued until such bonds shall have been disposed of, and no debts shall ever be created against any such improvement district, unless at the same time provision be made to assess and collect annually upon the property in such improvement district a sum sufficient to pay the interest on such bonds and create a sinking fund of at least two per cent, thereon; or if a certain portion of said bonds are payable each year, then a sufficient amount shall

be assessed and collected to pay each of said bonds as they mature and pay the interest on all unpaid bonds. The interest and sinking fund shall be kept separate by the city from other funds, and shall not be diverted or used for any other purpose than to pay interest and principal on such bonds, and the city comptroller shall sign [sic] no draft or warrant on said fund, except to pay the interest and redeem the bonds for which it was provided. The sinking fund for such bonds shall be invested as provided in section 1, Article IV of this Charter, or in bonds of such improvement district; provided, however, that all property situated within any improvement district which may be created under the authority of this section shall participate to its full extent in, and be equally improved in its just proportion by said sidewalk or street improvements. (Act of 1905; amended October 15, 1913)

Section 17. Repealed.

Section 17-a. Repealed.

Section 17-b. Publication of ordinances and resolutions.

The City Secretary shall give notice of the passage of all ordinances and resolutions, except those granting franchises (which shall be published as now provided by the charter), by causing to be published in some daily newspaper in the City of Houston at least once within ten days after their passage and approval, the caption or title of such ordinances and resolutions, and such ordinance or resolution shall take effect and be in full force and effect from and after its passage and approval, unless otherwise provided therein; provided, that all such resolutions and ordinances shall be subject to the provisions of this charter for a referendum, and any action taken by authority of same shall be and become null and void should a referendum petition be filed on such ordinance or resolution as provided in Article VII-b of this charter. (Added by amendment October 15, 1913)

Section 18. Repeal of conflicting laws.

Be it further enacted, that all laws and parts of laws in conflict herewith be and the same are

hereby repealed; and that all previous special Acts granting or amending Charters of the city of Houston be especially repealed. (Act of 1905)

Note—The title of this section was added by the editor; it was not titled in the 1905 Special Act.

Section 19. Effect of Adopting Inconsistent Amendments.

Any amendment to the Charter of the City of Houston which may be adopted which is inconsistent with any existing provision of the City Charter shall by such adoption repeal such inconsistent provision, and at any election for the adoption of amendments if the provisions of two or more proposed amendments approved at said election are inconsistent the amendment receiving the highest number of votes shall prevail. (Added by amendment October 15, 1913)